APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,652	09/25/2003	Haruhiko Kinoshita	Q77552	5574

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EXAMINER
PATEL, DHAIRYA A

ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action **Before the Filing of an Appeal Brief**	Application No. 10/669,652	Applicant(s) KINOSHITA, HARUHIKO
	Examiner Dhairya A. Patel	Art Unit 2451

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>09 February 2009</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

    b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

    Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b) ☐ They raise the issue of new matter (see NOTE below);

    (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

    NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: <u>NONE</u>.

    Claim(s) objected to: <u>NONE</u>.

    Claim(s) rejected: <u>1-33</u>.

    Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/John Follansbee/
Supervisory Patent Examiner, Art Unit 2451

Continuation of 5. Applicant's reply has overcome the following rejection(s): 101 rejection cited in Final rejection mailed on 11/26/2008. The 101 rejection cited in final rejection mailed on 11/26/2008 has been withdrawn in view of applicant's argument filed on 2/9/2009.

Continuation of 11. does NOT place the application in condition for allowance because:
Applicant filed remarks on 2/9/2009 are deemed non-persuasive.
As per remarks, Applicant stated the following:

A). Applicant states Kawaguchi does not teach "determining for each of a plurality of utitlization information that each indicate a utilization result of another content object in the past, whether an initial information comprised by said utilization information is on the same level as the initital information of the content object".
As per remark A, Examiner respectfully disagrees with the applicant because in Paragraph 37,42,50, Kawaguchi teaches in Fig. 3 step 13 and step14, it checks if the there is product information (determining utilization information) (paragraph 37). In paragraph 42, it states the product information is already displayed and then controller registers this product information in shared product database. In Paragraph 50, it states utilization results i.e. per-usage fees being utilized: 90 yen and in a predetermined period (for example, one month). In Fig. 2a, and 2c,d,e, it shows that utilization information which is utilizing information i.e. fees, time, totaling data is on the same level as retailer code (initial information). In Paragraph 51-52, Kawaguchi specifically states number of times product data registered by other retailers and retailer A was used i.e. another content object from the past because it has record of number of time it was used in the past. Furthermore, Kawaguchi in Paragraph 44, teaches having utitlization history data prepared based on the retailer code of retailer A and retailer B which is registered in the product database (another product information).
Therefore Kawaguchi teaches the claimed limitations.

B). Applicatn states Kawaguchi does not teach "extracting information regarding another product and then "generating ....information for the [first product] based on the extracted utlitization [of the another product]".
As per remark B, Examiner respectfully disagrees with the applicant because in Paragraphs 45-54, Kawaguchi teaches extracting common production information from the shared database, which is read out and supplied to the terminal (extracting utilzation information) and utilization results data which contains initial information i.e. the common product information which is used and creates a utilization results which is listed in Paragraphs 48-54. In Fig. 2a, and 2c,d,e, it shows that utilization information which is utilizing information i.e. fees, time, totaling information is on the same level as retailer code (initial information). Examiner would also like to point out that claim language does not state "generating ....information for the [first product] based on the extracted utlitization [of the another product]. Therefore Kawaguchi teaches the claimed limitations.